

REDACTED

BEFORE THE BOARD OF MEDICAL QUALITY ASSURANCE
DIVISION OF MEDICAL QUALITY
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

RODNEY D. CHAMBERLAIN, M.D.
884 Middlefield Road
Palo Alto, California
Certificate No. G-0494

NO. D-2018

N-11445

Respondent.

DECISION

The attached Proposed Decision of the Administrative Law
Judge is hereby adopted by the Board of Medical Quality
Assurance as its Decision in the
above-entitled matter.

This Decision shall become effective on December 21, 1978.

IT IS SO ORDERED November 21, 1978.


MICHAEL J. CAREYA
Secretary-Treasurer

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Respondent.

PROPOSED DECISION

This matter came on regularly for hearing before Rudolf H. Michaels, an Administrative Law Judge of the Office of Administrative Hearings, on September 5, 6, 7, 11 and 12, 1978, in Palo Alto, California.

The complainants were represented by Kenneth L. Freeman, Deputy Attorney General.

The respondent was present and was represented by James Dennis, his attorney.

The Accusation and the Supplemental Accusation were amended.

Evidence was received, the hearing was closed and the matter was submitted.

The Administrative Law Judge certifies this Decision, recommends its adoption and makes the following

FINDINGS OF FACT

I

Joseph Cosentino, M.D., made the Accusation in his official capacity of Acting Executive Director of the Board of Medical Quality Assurance of the State of California. James Rowland made the Supplemental Accusation in his official capacity of Executive Director of the Board.

II

At all times material herein, respondent Rodney D.

Chamberlain, M.D., held, and he now holds, Certificate No. G-0494 as a physician and surgeon issued by the Board of Medical Examiners on December 5, 1945. This certificate is in good standing and in full force and effect.

III

(1) Dexamyl is a trade name for the combined generic substances amphetamine and amobarbital, a controlled substance as defined in Schedule II, Section 11055(d)(1) of the California Health and Safety Code, (hereafter "H&SC") and a dangerous drug as defined in Sections 4211(c) and 4211(k) of the California Business and Professions Code (hereafter "B&PC").

(2) Quaalude is a trade name for the generic substance methaqualone, a controlled substance as defined in Schedule III, Section 11056(b)(6) H&SC and a dangerous drug as defined in Sections 4211(a) and 4211(k) B&PC.

(3) Desoxyn is a trade name for the generic substance methamphetamine hydrochloride, a controlled substance as defined in Schedule II, Section 11055(d)(1) H&SC and a dangerous drug as defined in Section 4211(c) B&PC.

(4) Ascodeen is a trade name for the combined generic substances codeine phosphate and aspirin, a narcotic and a controlled substance as defined in Schedule III, Section 11056(d)(2) H&SC and a dangerous drug as defined in Section 4211(k) B&PC.

IV

On each of the ten occasions listed in paragraph 6 of the Accusation which is incorporated herein by this reference and made a part hereof, respondent prescribed the controlled substances and dangerous drugs there listed to the individuals named without, in any of the ten instances, first conducting a good faith prior examination and without, in any of these ten instances, medical indication therefor.

V

On each of the ten occasions listed in paragraph 6 of the Accusation, respondent prescribed controlled substances to a person who was not at the time under his treatment for a pathology or condition.

VI

Between December 23, 1976 and August 8, 1977, respondent prescribed about 5,396 Ascodeen tablets for Lewis H. [redacted] on the dates and in the quantities shown in paragraph 18 of the Supplemental Accusation. Respondent's conduct in this connection constitutes clearly excessive prescribing of drugs to the detriment

of the patient, as determined by the customary practice and standards of the local community of licensed physicians and surgeons.

VII

Respondent's conduct in prescribing Ascodeen tablets for Lewis H. [REDACTED] as described in Finding VI constitutes an extreme departure from the standard of practice among physicians and surgeons in the State of California and thus constitutes gross negligence.

VIII

Respondent's conduct in prescribing Ascodeen tablets for Lewis H. [REDACTED] as described in Finding VI constitutes incompetence.

IX

The allegations of paragraph 25 of the Supplemental Accusation that respondent prescribed Ascodeen for Lewis H. [REDACTED] without conducting a good faith examination and without medical indication therefor were not established and are found not to be true, but it is true that, beginning about two months from December 23, 1976, respondent, on more than 25 occasions, prescribed and authorized Ascodeen tablets for Lewis H. [REDACTED] without reestablishing a medical indication for doing so.

X

It was not established that respondent prescribed controlled substances and dangerous drugs to George S. [REDACTED] without a good faith prior examination and medical indication therefor, as alleged in paragraph 27, nor that respondent's conduct in this connection constituted gross negligence as alleged in paragraphs 29 and 30, or incompetence as alleged in paragraph 32 of the Supplemental Accusation.

XI

(1) On September 22, 1977, in the Municipal Court of Palo Alto, Mountain View Judicial District, County of Santa Clara, State of California, in proceeding Number 59455, respondent was convicted on his plea of nolo contendere of one count of violation of Section 11154 H&SC (prescribing a controlled substance to a person not under treatment for a pathology or condition).

(2) On September 1, 1978, in the Superior Court of the State of California, County of Santa Clara, in proceeding Number 68719, respondent was convicted on his plea of nolo contendere of one count of the crime of violation of Section 11156 H&SC (prescribing a controlled substance to an habitual user, or to a person representing himself as such).

XII

Each of the convictions described in Finding XI was a conviction of a misdemeanor violation of a statute of this state regulating controlled substances.

XIII

Following the conviction described in Finding XI(1) respondent was sentenced to one year in the County Jail. Execution of all but 15 days of the sentence was suspended and respondent was placed on probation for one year on conditions which included payment of a \$1,000 fine plus a \$250 assessment, and a prohibition against prescribing any controlled substances pending disposition of the disciplinary proceedings before the Board. He has paid the fine, has served the 15 day jail term and has fully complied with the condition governing prescriptions. At the time of the hearing, he had not been sentenced on the conviction described in Finding XI(2). Probation on the 1977 conviction will expire on November 9, 1978.

XIV

Respondent, now 65 years of age, has been in the general practice of medicine in Palo Alto, California, since 1947, following graduation from the University of Colorado School of Medicine and eight years of distinguished service as a medical officer in the United States Navy. He was released from active duty at his own request with the rank of Commander in June of 1947.

XV

Respondent's wife of thirty-eight years is also a licensed physician and surgeon. She is employed half-time by the Peninsula Memorial Blood Bank, keeps respondent's books and occasionally makes appointments for him. The couple has two grown sons.

XVI

When he first entered private practice, respondent was on the staff of several hospitals but he disliked the paperwork and the meeting requirements, became disinterested in surgery and obstetrics and allowed his staff privileges to come to an end in the mid-fifties. At the beginning, he also employed an office nurse but, in about 1958, he decided that he was able to function more effectively without office help.

XVII

This case is full of contradictions. There is substantial evidence that respondent is a fine diagnostician and a most helpful and considerate practitioner who truly cares

about his patients. There is also substantial evidence that he prescribes medication on request and without examination despite clear indications that someone he considers one of his patients (in this case, three undercover agents) is not only not ill but would obviously be abusing the medication if he or she were a genuine patient.

Respondent's office is poorly kept. Appointments are made with the help of a telephone answering device. There is a waiting list for new patients. The normal fee is \$10 per visit. Respondent characterized one of the undercover agents as paranoid when she insisted on a receipt. Overhead expenses are minimal. Respondent sees between five and twenty patients a day. Yet the combined income of this couple, according to their federal income tax returns, was only \$23,240 in 1975; \$25,865 in 1976; and \$24,455 in 1977. The wife's income ranged from about \$12,500 to \$16,000 for these three years. The Chamberlains live very modestly, drive unspectacular cars, rarely go on vacation, and submitted a statement showing a net worth of \$175,734. About \$152,000 of this sum represents the value of the family home, bought years ago for a fraction of this amount.

Respondent and his wife deny that they have income-producing property of any substantial value. They state that they had to encumber their home and borrow \$17,500 to pay for the legal expenses in the criminal, civil and administrative proceedings in which they have become involved. When respondent's wife retires, she will receive a \$70 pension from the blood bank.

Respondent kept almost no records on some patients and saved every scrap of paper in the H[REDACTED] case over a period of years.

Respondent accepts the findings that he violated the laws governing controlled substances in the two instances which led to the convictions described in Findings XI and XII but vigorously denies any wrongdoing in prescribing to undercover agents in the nine other instances described in Finding IV or in connection with the H[REDACTED] case except prescribing for a known habitue.

Respondent maintains that he trusts his patients, gives them a lot of leeway, keeps only such notes as he needs immediately, and has the ability to make diagnoses without taking a history or a physical consisting of more than taking the patient's blood pressure.

XVIII

Respondent has been convicted of two serious criminal violations of the laws regulating controlled substances. He shows no insight and no remorse but complains that all the legal proceedings, and especially the restriction placed on his authority to prescribe, severely interfere with his ability to practice medicine.

DETERMINATION OF ISSUES

I

Respondent's conduct constitutes eight separate instances of unprofessional conduct, each a separate cause for the suspension or revocation of the Certificate described in Finding II under Sections 2360 and 2372 of the Business and Professions Code and the additional sections of that Code and the Health and Safety Code and the facts contained in the Finding or Findings shown opposite the section numbers as follows:

| <u>Section(s)</u> | <u>Finding(s)</u> |
|--|-------------------|
| 2399.5 B&PC | IV |
| 2391.5 B&PC and 11154 H&SC | V |
| 700 (formerly 2361.5) B&PC and 11156 H&SC | VI |
| 2361(b) | VII |
| 2361(d) | VIII |
| 2384 | XI and XII |

II

Cause for the revocation or suspension of the certificate described in Finding II was not established under the facts contained in Finding X.

III

The contents of Findings XIV through XVIII were considered in the formulation of the Order.

ORDER

The certificate described in Finding II is revoked.

Dated: September 28, 1978

Rudolf H. Michaels
RUDOLF H. MICHAELS
Administrative Law Judge
Office of Administrative Hearings

REDACTED

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9
10 BEFORE THE BOARD OF MEDICAL QUALITY ASSURANCE
11 DIVISION OF MEDICAL QUALITY
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation)

14 against

NO. D-2018

15 RODNEY D. CHAMBERLAIN, M.D.
16 884 Middlefield Road
17 Palo Alto, CA
18 Certificate No. G-0494

ACCUSATION

19 Respondent.

20 JOSEPH COSENTINO, M.D., complainant herein, charges and
21 alleges as follows:

22 1. He is the Acting Executive Director of the Board of
23 Medical Quality Assurance, State of California (hereinafter the
24 "Board"), and makes these charges and allegations in his official
25 capacity and not otherwise.

26 2. At all times material herein, respondent Rodney D.
27 Chamberlain, M.D., has held a certificate as a physician and
28 surgeon issued by the Board, more particularly identified as
29 Certificate No. G-0494. Said certificate was issued to respondent
30 on December 5, 1946, and is, and has been, in good standing and
31 full force and effect.

32 3. Dexamyf is a trade name for the combined generic
substances amphetamine and amobarbital, and is a controlled sub-
stance as defined in Schedule II, section 11055(d)(1) of the
California Health and Safety Code, and a dangerous drug as defined

1 in sections 4211(a), 4211(c) and 4211(k) of the California Business
2 and Professions Code.

3 4. Quaalude is a trade name for the generic substance
4 methaqualone, and is a controlled substance as defined in Schedule
5 III, section 11056(b)(6) of the California Health and Safety Code,
6 and a dangerous drug as defined in sections 4211(a) and 4211(k) of
7 the California Business and Professions Code.

8 5. Desoxyn is a trade name for the generic substance
9 methamphetamine hydrochloride, and is a controlled substance as
10 defined in Schedule II, section 11055(d)(1) of the California
11 Health and Safety Code, and a dangerous drug as defined in section
12 4211(c) of the California Business and Professions Code.

13 FOR A FIRST CAUSE FOR DISCIPLINARY ACTION:

14 6. On or about the dates listed below, respondent did
15 prescribe a controlled substance and/or dangerous drug as listed
16 below to the individuals listed below, without first conducting a
17 good faith examination and without medical indication therefor:

| | | |
|--------------------------|--|--|
| 18 a. May 28, 1976 | Barbara Detro (aka Janet S [REDACTED]) | 100 Dexamy1, 15 mg. 30 Quaalude, 300 mg. |
| 19 b. June 18, 1976 | Barbara Detro (aka Janet S [REDACTED]) | 100 Dexamy1, 15 mg. 100 Quaalude, 300 mg. |
| 20 c. July 16, 1976 | Barbara Detro (aka Janet S [REDACTED]) | 100 Dexamy1, 15 mg. 100 Quaalude, 300 mg. |
| 21 d. July 19, 1976 | Sharyn Dalton (aka Geri C [REDACTED]) | 100 Dexamy1, 15 mg. 100 Quaalude, 300 mg. |
| 22 e. August 4, 1976 | Sharyn Dalton (aka Geri C [REDACTED]) | 100 Dexamy1, 15 mg. 100 Quaalude, 300 mg. |
| 23 f. August 20, 1976 | Sharyn Dalton (aka Geri C [REDACTED]) | 100 Dexamy1, 15 mg. 100 Quaalude, 300 mg. |
| 24 g. August 31, 1976 | Barbara Detro (aka Janet S [REDACTED]) | 100 Dexamy1, 15 mg. 100 Quaalude, 300 mg. |
| 25 h. September 13, 1976 | Sharyn Dalton (aka Geri C [REDACTED]) | 100 Dexamy1, 15 mg. 100 Quaalude, 300 mg. |
| 26 i. October 19, 1976 | Sharyn Dalton (aka Geri C [REDACTED]) | 100 Desoxyn, 15 mg. 100 Quaalude, 300 mg. |
| 27 j. October 19, 1976 | Dennis Nelson (aka Dennis H [REDACTED]) | 100 Desoxyn, 15 m. |

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1 7. The conduct of respondent as alleged above in
2 paragraph 6, and 6(a) through 6(j), inclusive, is jointly, singu-
3 larly, or in any combination thereof, unprofessional conduct in
4 violation of section 2399.5 of the California Business and Profes-
5 sions Code; and thereby constitutes grounds for disciplinary action
6 against respondent pursuant to sections 2360 and 2361 of the
7 California Business and Professions Code.

8 FOR A SECOND CAUSE FOR DISCIPLINARY ACTION:

9 8. The dates, individuals, and controlled substances
10 and/or dangerous drugs set forth above in paragraphs 6(a) through
11 6(j), inclusive, are incorporated herein by reference as though
12 set forth at length. On or about said dates, and each of them,
13 respondent did violate a state statute regulating dangerous drugs
14 or controlled substances, to wit: California Health and Safety
15 Code section 11154, in that he did provide the enumerated sub-
16 stances to the designated individuals on the dates specified,
17 when said individuals were not under his treatment for a pathology
18 or condition.

19 9. The conduct of respondent as alleged above in para-
20 graph 8 is unprofessional conduct in violation of section 2391.5
21 of the California Business and Professions Code, in that said
22 conduct violator section 11154 of the California Health and Safety
23 Code, a state statute regulating dangerous drugs or controlled
24 substances; and thereby constitutes grounds for disciplinary action
25 against respondent pursuant to sections 2360 and 2361 of the
26 California Business and Professions Code.

27 FOR A THIRD CAUSE FOR DISCIPLINARY ACTION:

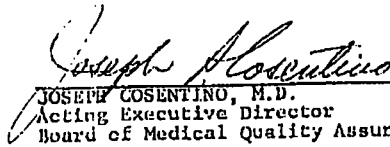
28 10. During the period from March 31, 1976 to July 17,
29 1976, respondent did clearly excessively prescribe drugs to one
30 Michael K. [REDACTED] to the detriment of said patient as determined by
31 the customary practice and standards of the local community of

1 physicians and surgeons, by prescribing for said patient the
2 following substances and amounts on the dates indicated:

| | | |
|----|-------------------|-----------------------|
| 3 | a. March 31, 1976 | 100 Desoxyn, 15 mg. |
| 4 | b. April 7, 1976 | 100 Desoxyn, 15 mg. |
| 5 | c. April 20, 1976 | 100 Desoxyn, 15 mg. |
| 6 | d. April 20, 1976 | 100 Quaalude, 300 mg. |
| 7 | e. April 30, 1976 | 100 Desoxyn, 15 mg. |
| 8 | f. May 8, 1976 | 100 Desoxyn, 15 mg. |
| 9 | g. May 14, 1976 | 100 Desoxyn, 15 mg. |
| 10 | h. May 19, 1976 | 100 Desoxyn, 15 mg. |
| 11 | i. May 29, 1976 | 100 Desoxyn, 15 mg. |
| 12 | j. May 29, 1976 | 100 Quaalude, 300 mg. |
| 13 | k. June 2, 1976 | 100 Desoxyn, 15 mg. |
| 14 | l. June 9, 1976 | 100 Desoxyn, 15 mg. |
| 15 | m. June 12, 1976 | 100 Desoxyn, 15 mg. |
| 16 | n. June 12, 1976 | 100 Quaalude, 300 mg. |
| 17 | o. June 22, 1976 | 100 Desoxyn, 15 mg. |
| 18 | p. June 22, 1976 | 100 Quaalude, 300 mg. |
| 19 | q. June 26, 1976 | 100 Desoxyn, 15 mg. |
| 20 | r. July 3, 1976 | 100 Desoxyn, 15 mg. |
| 21 | s. July 3, 1976 | 100 Quaalude, 300 mg. |
| 22 | t. July 7, 1976 | 100 Desoxyn, 15 mg. |
| 23 | u. July 9, 1976 | 100 Desoxyn, 15 mg. |
| 24 | v. July 14, 1976 | 100 Desoxyn, 15 mg. |
| 25 | w. July 17, 1976 | 100 Desoxyn, 15 mg. |

26 11. The conduct of respondent as alleged above in
27 paragraph 10 and subparagraphs 10(a) through 10(w), inclusive,
28 is unprofessional conduct in violation of section 2361.5 of the
29 California Business and Professions Code; and thereby constitutes
30 grounds for disciplinary action against respondent pursuant to
31 sections 2360 and 2361 of the California Business and Professions
32 Code.

1 WHEREFORE, complainant prays that a hearing be held,
2 and that thereafter, the Board suspend or revoke respondent's
3 Certificate No. G-0494 as to each separate and specific violation
4 alleged herein, or take such other and further action as is deemed
5 necessary and proper.
6 DATED: JUNE 2, 1977

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9 JOSEPH COSENTINO, M.D.
10 Acting Executive Director
11 Board of Medical Quality Assurance
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10 In the Matter of the Accusation)
11 against)
12 ROONEY D. CHAMBERLAIN, M.D.)
13 884 Middlefield Road)
14 Palo Alto, California)
15 Certificate No. G-0494)
16 Respondent.)

NO. D-2018

SUPPLEMENTAL ACCUSATION
(Pursuant to Gov. Code
section 11507.)

16 Robert Rowland, complainant herein, supplements the
17 accusation presently on file and pending in the above-captioned
18 matter by charging and alleging, in numbered paragraphs consecutive
19 to those in said accusation, as follows:

20 12. He is the Executive Director of the Board of Medical
21 Quality Assurance, State of California (hereinafter the "Board"),
22 and makes these charges and allegations in his official capacity
23 and not otherwise.

24 13. Ascodeen is a trade name for the combined generic
25 substances codeine phosphate and aspirin, and is a narcotic,
26 controlled substance as defined in Schedule III, section 11056(d)(2)
27 of the Health and Safety Code, and a dangerous drug as defined in
28 section 4211(k) of the Business and Professions Code.

1 14. Tuinal is a trade name for the combined generic
2 substances amobarbital and secobarbital, and is a controlled sub-
3 stance as defined in Schedule III, section 11056(b)(1) of the
4 Health and Safety Code, and a dangerous drug as defined in section
5 4211(a) of the Business and Professions Code.

6 15. Valium is a trade name for the generic substance
7 diazepam, and is a dangerous drug as defined in section 4211(k)
8 of the Business and Professions Code.

9 16. The substance APC is a controlled substance as
10 defined in Schedule III, section 11056(d)(2) of the Health and
11 Safety Code, and a dangerous drug as defined in section 4211(k)
12 of the Business and Professions Code.

13 17. Obetrol is a trade name for the generic substance
14 amphetamine, and is a controlled substance as defined in Schedule
15 II, section 11055(d)(1) of the Health and Safety Code, and a
16 dangerous drug as defined in sections 4211(c) and 4211(k) of the
17 Business and Professions Code.

18 FOR A FOURTH CAUSE FOR DISCIPLINARY ACTION

19 18. From in or about December 1976, through in or about
20 August 1977, respondent Rodney D. Chamberlain, M.D., prescribed
21 approximately 5,396 dosage units of Ascodeen 30 mg. for patient
22 Lewis H. [REDACTED] as follows:

| 23 | <u>Date Filled</u> | <u>Dosage Units Ascodeen</u> | <u>Pharmacy</u> |
|----|--------------------|------------------------------|---------------------------------------|
| 24 | 12-13-76 | 150 | Town & Country Pharmacy, Palo Alto |
| 25 | 12-29-76 | 150 | " |
| 26 | 1-5-77 | 150 | " |
| 27 | 1-10-77 | 150 | " |

| | <u>Date Filled</u> | <u>Dosage Units Ascodeen</u> | <u>Pharmacy</u> |
|----|--------------------|------------------------------|---------------------------------------|
| 1 | 1-24-77 | 150 | Town & Country Pharmacy, Palo Alto |
| 2 | 1-31-77 | 150 | " |
| 3 | 2-7-77 | 150 | " |
| 4 | 2-12-77 | 150 | " |
| 5 | 2-18-77 | 150 | " |
| 6 | 2-25-77 | 150 | " |
| 7 | 3-13-77 | 150 | Walgreen Drugs, Palo Alto |
| 8 | 3-18-77 | 150 | " |
| 9 | 3-27-77 | 68 | " |
| 10 | 3-28-77 | 82 | " |
| 11 | 4-3-77 | 150 | " |
| 12 | 4-8-77 | 150 | Town & Country |
| 13 | 4-12-77 | 150 | Walgreen Drugs |
| 14 | 4-19-77 | 150 | Town & Country |
| 15 | 4-21-77 | 150 | Walgreen Drugs |
| 16 | 4-30-77 | 150 | Walgreen Drugs |
| 17 | 5-5-77 | 150 | Town & Country |
| 18 | 5-10-77 | 150 | Walgreen Drugs |
| 19 | 5-16-77 | 150 | Town & Country |
| 20 | 5-20-77 | 150 | Walgreen Drugs |
| 21 | 5-27-77 | 150 | Town & Country |
| 22 | 5-31-77 | 150 | Walgreen Drugs |
| 23 | 6-4-77 | 150 | Town & Country |
| 24 | 6-13-77 | 150 | Walgreen Drugs |
| 25 | 6-17-77 | 150 | Town & Country |
| 26 | 6-21-77 | 150 | Walgreen Drugs |
| 27 | 6-27-77 | 150 | Town & Country |
| 28 | 7-13-77 | 150 | Town & Country |

| | <u>Date Filled</u> | <u>Dosage Units Ascodeen</u> | <u>Pharmacy</u> |
|---|--------------------|------------------------------|-----------------|
| 2 | 7-15-77 | 150 | Walgreen Drugs |
| 3 | 7-25-77 | 146 | " |
| 4 | 7-28-77 | 150 | Town & Country |
| 5 | 8-4-77 | 150 | Walgreen Drugs |
| 6 | 8-8-77 | 150 | Town & Country |
| 7 | Total 5,396 | | |

19. In prescribing Ascodeen 30 mg. for Lewis H. [REDACTED] as described above in paragraph 18, respondent did clearly excessively prescribe Ascodeen to the detriment of said patient as determined by the customary practice and standards of the local community of physicians and surgeons, in that on or about August 13, 1977, said patient died from Ascodeen intoxication.

20. The conduct of respondent as alleged above in paragraphs 18 and 19 is unprofessional conduct in violation of former section 2361.5 of the Business and Professions Code (repealed December 31, 1977 and replaced by section 700 of said Code); and thereby constitutes grounds for disciplinary action against respondent pursuant to sections 2360 and 2361 of the Business and Professions Code.

FOR A FIFTH CAUSE FOR DISCIPLINARY ACTION

21. Each and every allegation set forth in paragraphs 18 and 19 are incorporated herein by reference as though set forth at length. On or about August 13, 1977, Lewis H. [REDACTED] died from Ascodeen intoxication. In prescribing Ascodeen 30 mg. for Lewis H. [REDACTED] as so described, respondent acted in a manner which was an extreme departure from the standard of practice among

1 physicians and surgeons in the State of California.

2 22. The conduct of respondent as alleged above in
3 paragraph 21 constitutes gross negligence on the part of respondent
4 which is unprofessional conduct in violation of section 2361(b) of
5 the Business and Professions Code; and thereby constitutes grounds
6 for disciplinary action against respondent pursuant to sections
7 2360 and 2361 of the Business and Professions Code.

8 FOR A SIXTH CAUSE FOR DISCIPLINARY ACTION

9 23. Each and every allegation set forth in paragraph
10 18 and 19 are incorporated herein by reference as though set forth
11 at length. On or about August 13, 1977, Lewis H. [REDACTED] died from
12 Ascodeen intoxication. In prescribing Ascodeen 30 mg. for Lewis
13 H. [REDACTED] as so described, respondent acted in a manner which evi-
14 dences his lack of knowledge and ability in exercising his
15 professional medical obligations.

16 24. The conduct of respondent as alleged above in
17 paragraph 23 evidences incompetence on the part of respondent
18 which is unprofessional conduct in violation of section 2361(d)
19 of the Business and Professions Code; and thereby constitutes
20 grounds for disciplinary action against respondent pursuant to
21 sections 2360 and 2361 of the Business and Professions Code.

22 FOR A SEVENTH CAUSE FOR DISCIPLINARY ACTION

23 25. Each and every allegation set forth in paragraph 18
24 is incorporated herein by reference as though set forth at length.
25 In prescribing as so described, respondent prescribed Ascodeen
26 30 mg. for Lewis H. [REDACTED] without conducting a good faith examination
27 and without medical indication for the prescribing of said drug to
28 said patient.

1 26. The conduct of respondent as set forth above in
2 paragraph 25 is unprofessional conduct in violation of section
3 2399.5 of the Business and Professions Code; and thereby consti-
4 tutes grounds for disciplinary action against respondent pursuant
5 to sections 2360 and 2361 of the Business and Professions Code.

6 FOR AN EIGHTH CAUSE FOR DISCIPLINARY ACTION

7 27. On or about the dates listed below, respondent did
8 prescribe to George S. [REDACTED] the controlled substances and/or
9 dangerous drugs listed below without conducting a good faith prior
10 examination and without medical indication therefor:

| 11 Date | 12 Dosage Unit | 13 Drug |
|--------------|------------------|----------------|
| 14 2-19-77 | 100 | Obetrol 20 mg. |
| 15 2-19-77 | 100 | Tuinal 3 gr. |
| 16 4-19-77 | 100 | Tuinal 3 gr. |
| 17 7-9-77 | 100 | Tuinal 3 gr. |
| 18 7-5-77 | 50 | Obetrol 20 mg. |
| 19 8-31-77 | 100 | Valium 10 mg. |
| 20 8-31-77 | 100 | Tuinal 3 gr. |
| 21 8-31-77 | 100 | APC #4 |

22 28. The conduct of respondent as alleged above in
23 paragraph 27 is unprofessional conduct in violation of section
24 2399.5 of the Business and Professions Code; and thereby consti-
25 tutes grounds for disciplinary action against respondent pursuant
26 to sections 2360 and 2361 of the Business and Professions Code.

27 FOR A NINTH CAUSE FOR DISCIPLINARY ACTION

28 29. Each and every allegation set forth in paragraph 27
29 is incorporated herein by reference as though set forth at length.

1 On or about September 16, 1977, George S. died of asphyxia due
2 to aspirated food bolus in his airway. As contributory to this
3 was alcohol and barbiturate intoxication. In prescribing said
4 drugs for George S. as so described, respondent acted in a
5 manner which was an extreme departure from the standard of practice
6 among physicians and surgeons in the State of California.

7 30. The conduct of respondent as alleged above in
8 paragraph 29 constitutes gross negligence on the part of respondent
9 which is unprofessional conduct in violation of section 2361(d)
10 of the Business and Professions Code; and thereby constitutes
11 grounds for disciplinary action against respondent pursuant to
12 sections 2360 and 2361 of the Business and Professions Code.

13 FOR A TENTH CAUSE FOR DISCIPLINARY ACTION

14 31. Each and every allegation set forth in paragraph 27
15 is incorporated herein by reference as though set forth at length.
16 On or about September 16, 1977, George S. died of asphyxia due
17 to aspirated food bolus in his airway. As contributory to this
18 was alcohol and barbiturate intoxication. In prescribing said
19 drugs as so described, respondent acted in a manner which evidences
20 his lack of knowledge and ability in exercising his professional
21 medical obligations.

22 32. The conduct of respondent as alleged above in
23 paragraph 31 evidences incompetence on the part of respondent
24 which is unprofessional conduct in violation of section 2361(d)
25 of the Business and Professions Code; and thereby constitutes
26 grounds for disciplinary action against respondent pursuant to
27 sections 2360 and 2361 of the Business and Professions Code.

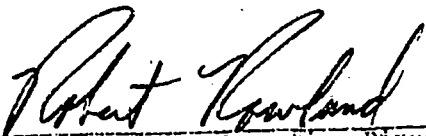
FOR AN ELEVENTH CAUSE FOR DISCIPLINARY ACTION

1 33. On or about September 22, 1977, respondent, in the
2 Municipal Court of Palo Alto, Mountain View Judicial District,
3 County of Santa Clara, State of California, in proceeding number
4 59455 before Judge James R. O'Grady, was convicted on his plea of
5 nolo contendere of one (1) count of the crime of violation of
6 section 11154 of the Health and Safety Code, to wit: Prescribing
7 a controlled substance to a person not under his treatment for a
8 pathology or condition.

9 34. The conduct of respondent as alleged above in
10 paragraph 33 is unprofessional conduct in violation of section
11 2384 of the Business and Professions Code; and thereby constitutes
12 grounds for disciplinary action against respondent pursuant to
13 sections 2380 and 2381 of the Business and Professions Code.

14 WHEREFORE, in addition to that prayed for in the accusa-
15 tion pending in this case, complainant prays that a hearing be
16 held and that thereafter the Board suspend or revoke respondent's
17 certificate number C-0494, as to each separate and distinct viola-
18 tion alleged in this supplemental accusation; or take such other
19 and further action as is deemed necessary and proper.

20 DATED: April 24, 1978

21
22 
23 ROBERT ROWLAND, Executive Director
24 Board of Medical Quality Assurance
25 State of California
26

27 Complainant